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January 17, 2014

**Via Hand Delivery and ECFS**

Accepted/Files

Marlene H. Dortch, Secretary  
 Federal Communications Commission  
 445 12<sup>th</sup> Street, S.W.  
 Room TW-A325  
 Washington, DC 20554

JAN 17 2014

Federal Communications Commission  
 Office of the Secretary

Attention: Wireline Competition Bureau

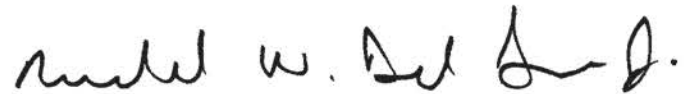
**Re: Petition for Limited Waiver**  
**In the Matter of Rural Call Completion, WC Docket No. 13-39**

Dear Secretary Dortch,

On behalf of Vonage Holdings Corp. ("Vonage"), enclosed for filing are an original and four (4) copies of a Petition for Extension of Time and Limited Waiver of the Call Ringing Rules adopted in the Commission's October 28, 2013, Report and Order and Further Notice of Proposed Rulemaking, in the above-referenced proceeding.<sup>1</sup>

Please date-stamp and return the enclosed extra copy of this filing. Any questions relating to this submission should be directed to the undersigned.

Sincerely,



Ronald W. Del Sesto, Jr.  
 Counsel to Vonage Holdings Corp.

Enclosure

cc: Julie Veach, Chief (Wireline Competition Bureau)  
 Gregory Kwan (Competition Policy Division-WCB)

<sup>1</sup> *In the Matter of Rural Call Completion*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 16154 (2013) ("Order").

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deploy its systems to ensure customers' services are not disrupted. As such, a grant of this Petition would be in the public interest.

**I. VONAGE HAS TAKEN SIGNIFICANT STEPS TO COMPLY WITH THE COMMISSION'S NEW CALL SIGNALING RULES, BUT NEEDS ADDITIONAL TIME TO ENSURE ITS TECHNICAL SOLUTIONS WILL FUNCTION PROPERLY**

**A. Vonage Requires a Substantial Technical Solution to Meet the Commission's New Requirements**

The Commission's new Rule provides that a voice service provider shall not convey a ringing indication to the calling party until the terminating provider has signaled that the called party is being alerted to an incoming call, such as by ringing.<sup>6</sup> Vonage currently only plays a ringing sound if it has not received a ring signal from an intermediate telecommunications provider within four seconds.<sup>7</sup>

Only a small percentage of calls do not receive a ring signal from an intermediate carrier within four seconds.<sup>8</sup> While Vonage analyzed modifying the system it currently uses to play a ringing sound if a ring is not received from an intermediate carrier within four seconds to deliver an alternative tone instead, it was impossible for Vonage to deliver a solution in compliance with the Rule across the entire customer base by modifying its existing system. Vonage estimated that at best, it could deliver a conforming solution to only 75% of its customers.

Due to the inability to leverage its existing media delivery system, Vonage is building a new media delivery system to play a message to customers in situations where a ring is not

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<sup>6</sup> See 47 C.F.R. § 64.2201(a). See also 47 C.F.R. § 64.2201 (a)(1) (applying the new call ringing rules to interconnected VoIP providers, such as Vonage).

<sup>7</sup> Vonage chose this four second interval very early in the company's existence based on the belief that if silence extended beyond four seconds, a customer would assume that his or her call had not gone through and would disconnect.

<sup>8</sup> Less than 15% measured against all domestic and international calls.



received from an intermediate carrier within four seconds for customers' calls. In addition to being able to deliver a conforming solution to Vonage's entire customer base, the new media delivery system will be significantly more flexible than trying to modify the existing media delivery system. It allows for delivery of voice messages (*e.g.*, "please hold while we connect your call") instead of just an alternative tone. In addition, the new system allows for the delivery of custom messages when circumstances warrant (*e.g.*, a natural disaster or other network problem).

Installation of this new media delivery system is a fundamental modification of Vonage's network architecture, touches all calls made on Vonage's network, and requires careful design, testing, and implementation. As Vonage has discussed with FCC staff in past meetings, it needs substantial time to implement this new system that will allow it to deliver a solution in compliance with the Rule.<sup>9</sup>

**B. Vonage Continues to Move Forward to Implement its New Message Delivery System, But Needs Additional Time to Fully Complete Rollout to Customers**

In early October, 2013, Vonage began to investigate potential solutions for the FCC's proposed call signaling rules. Vonage researched a number of potential solutions. In addition to the media delivery solution that it is currently pursuing, and trying to modify its existing media delivery system to make it comply with the expected Rule (both discussed *supra*), Vonage also considered not playing any media at all (*i.e.*, silence if no ring signal has been sent from the intermediate carrier within four seconds), as well as several alternative new media delivery

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<sup>9</sup> See, *e.g.*, Ex Parte Letter from Ronald W. Del Sesto, Jr., counsel for Vonage Holdings Corp., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-39 (filed Oct. 24, 2013) (explaining that any rule change involving the use of "false" ring tones should not be effective for 90 days following Federal Register publication due to the time needed for testing of large-scale change in call logic); Ex Parte Letter from Ronald W. Del Sesto, Jr., counsel for Vonage Holdings Corp., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-39 (filed Dec. 23, 2013) (noting Vonage's efforts to comply with the Commission's call ringing requirements, and the technical aspects of Vonage's ring signaling system).

solutions. However, the option of not playing any media at all while the call is being connected was rejected because in international calling, which is one of Vonage's primary target markets, it can often take a long time to receive a ring signal back from the international end of the call. The company determined that having extended silence while waiting for a ring on international calls would be an unacceptable customer experience.<sup>10</sup> So, by the beginning of November, 2013, Vonage decided to pursue the media delivery system that it is currently deploying. It believes that this solution is best suited for deployment within a reasonable timeframe, while minimizing unnecessary risk to customers.

Once Vonage decided to pursue its new media delivery solution, it immediately began to undertake a series of steps to develop and deploy the solution. The company: (1) began work with a vendor to appropriately size the media delivery platform; (2) worked with a vendor to address problems that inevitably arise when implementing a system-wide change which, in this case, had to do with the media delivery platform initially not being able to handle the expected number of calling sessions; (3) performed detailed testing of the new solution in December, 2013, and January, 2014, to make sure it would work under any call scenario; (4) implemented device and firmware testing in early January, 2014, to make sure that the various analog terminal adapters used by Vonage customers will actually work with the new network media delivery system;<sup>11</sup> and (5) engaged in mobile application testing to make sure that Vonage's applications work with the new media delivery system.<sup>12</sup>

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<sup>10</sup> Further, the company believes that extensive silence could lead customers to hang up and call again, or to place unnecessary calls to customer care.

<sup>11</sup> Such testing is expected to be completed this month.

<sup>12</sup> Such testing remains ongoing at this time.



Vonage is now starting to perform necessary software upgrades at one of its three major call processing centers to deploy the new network media delivery system to work. This work is undertaken at night, and deployments are being spread out to minimize any potential disruptions to customers' services. The company will begin the same software upgrades at its other two call processing centers in the coming days. Further, Vonage will soon install the new network components at the three call processing centers that do the media delivery.

Once these various network components and upgrades have been deployed, Vonage will need to undertake further testing to ensure that all of the various individual elements work, and that the entire system operates together as planned. Once testing is complete and any discovered bugs are addressed, the company will then stage implementation across the Vonage network (*i.e.*, activate media delivering network components at one call processing site and then wait several days to a week before the doing the next to monitor performance and ensure systems continue to run properly). Again, this staged implementation approach is intended to minimize any potential disruptions to customers' services to the greatest possible extent. Also it allows Vonage to more easily roll back these changes should any unanticipated customer impact occur.

Vonage and its vendors are working very hard to push this forward quickly but it is possible that it will take an additional 45 days to implement measured from the date of this filing. Therefore, Vonage requests a 30-day extension from the effective date of the Rule, *i.e.*, until March 3, 2014, to be in full compliance with the Commission's Rule. Simply put, Vonage cannot implement the technical solutions it has developed with its vendors by the January 31, 2014, deadline without putting its customers at risk. These technical solutions have the potential to impact each call that goes across the Vonage network. As such it is critical that Vonage fully validate and test the new media delivery system and stage the rollout across its customer base.

Trying to rush deployment of this new media delivery system would create substantial risk for disruption of service to our customers including calls not working at all, the new network messages not being delivered, or the new network messages not cutting off correctly when a ring signal is received from the intermediate carrier.

## II. STANDARD OF REVIEW

Pursuant to Section 1.3, the Commission may grant a waiver of any of its rules “for good cause shown.”<sup>13</sup> The Commission may waive a rule where the specific facts make strict compliance with the rule inconsistent with the public interest.<sup>14</sup> The Commission may also take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>15</sup> Additionally, the Commission’s approach to requests for waivers in the wireless area is illustrative: under those rules the Commission may waive specific requirements where, “in view of unique or unusual factual circumstances ..., application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, or [where] the applicant has no reasonable alternative.”<sup>16</sup> The courts have likewise found that waiver is appropriate if “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest”<sup>17</sup> or when the rule, as applied, results in an outcome that erodes a Commission policy.<sup>18</sup>

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<sup>13</sup> 47 C.F.R. § 1.3.

<sup>14</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>15</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

<sup>16</sup> 47 C.F.R. § 1.925(b)(3)(ii).

<sup>17</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)) (explaining the necessary criteria to establish good cause for a waiver). See also *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008).

<sup>18</sup> See *KCST-TV v. FCC*, 699 F.2d 1185, 1193 (D.C. Cir. 1983) (agreeing with the Commission’s holding that “[a] party demonstrating with persuasive evidence the invalidity of this underlying premise is entitled to waiver,” citing *OkeAirCo, Inc.*, 44 R.R.2d 166, 168-69 (1978)).



As shown below, these standards are met in this case, and Vonage's request should be granted expeditiously.

### **III. GRANT OF VONAGE'S WAIVER IS IN THE PUBLIC INTEREST**

Due to the limitations in its existing media delivery system, Vonage had no reasonable alternative but to undertake substantial network modifications to comply with the Rule. Vonage determined that, at best, modification of its existing media delivery could achieve compliance with the Rule for about 75 percent of its customer base. Further, the existing media delivery system would have only allowed for playing an alternative tone. In contrast, the new media delivery system will allow for a voice message that the network is trying to connect the call, which should be more understandable for consumers, and offers the ability to deliver situation specific messages when appropriate. The design, testing, and installation of this new media delivery system, however, is necessarily a time consuming process. As the new media delivery solution has the potential to impact each call on the Vonage network, it is critical that it work as planned.

In these circumstances, strict enforcement of the January 31, 2014, compliance deadline would be inconsistent with the public interest. Attempting to rush deployment of the new media delivery system to meet the January 31<sup>st</sup> deadline could create a number of problems. First, it could lead to call failure. This would undermine public safety by preventing customers from calling 911 or other emergency services. Aside from public safety issues, the inability to complete calls would be serious inconvenience to customers. Second, rushed deployment could cause the new network message to not play correctly. This would likely undermine the overarching goal of this proceeding to promote call completion. If a caller hears silence instead of message that the call is being connected, the caller may assume that his or her call is not working and



disconnect. Third, rushed deployment could cause the new network messages to not properly discontinue when a ringing signal is received from the intermediate carrier. This would frustrate the purpose of the Rule, which is to play ringing when the receiving party's telephone is ringing.

While Vonage has been working to identify, design, test, and implement a compliant solution since well before the Rural Call Completion Order was adopted and the call signaling rules became effective, it needs an additional 30-day extension from the effective date of the Rule, *i.e.*, until March 3, 2014, to fully implement its new media delivery system. Grant of this Petition will not undermine the policy goal of reducing customer confusion with respect to call signaling on long distance calls. Vonage is not requesting an exemption from or indefinite waiver of the Rule. Rather, it merely seeks additional time so that it can meet those requirements fully for all of its customers in a safe manner. Vonage's limited request for relief will not harm the Commission's public safety goals, but strict adherence to the call signaling rules might, as it may actually result in customer confusion or call completion issues. Accordingly, the Commission should grant the Petition.

#### IV. CONCLUSION

For the reasons set forth above, Vonage respectfully submits that grant of this Petition for extension of time and limited waiver serves the public interest.

Respectfully submitted,

Vonage Holdings Corp.

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By: /s/ electronically signed  
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Counsel for Vonage Holdings Corp.

Dated: January 17, 2014

## VERIFICATION

I, Brendan Kasper, state that I am Senior Regulatory Counsel of Vonage Holdings Corp. ("Vonage"); that I am authorized to submit the forgoing *Petition for Extension of Time and Limited Waiver* ("*Petition*") on behalf of Vonage; that the *Petition* was prepared under my direction and supervision; and I declare under penalty of perjury that the *Petition* is true and correct to the best of my knowledge, information, and belief.

  
Name: Brendan Kasper  
Title: Senior Regulatory Counsel  
Vonage Holdings Corp.